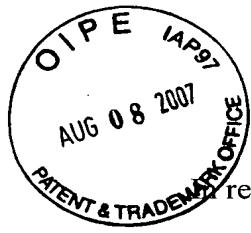


**PATENT APPLICATION**

DAC  
SFW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re the Application of

Sylvain FLEURY et al.

Attn: **Office of Petitions**

Application No.: 10/573,704

Docket No.: 122481

Filed: March 27, 2006

For: NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41  
POLYPEPTIDES

**RENEWED PETITION TO ACCEPT APPLICATION UNDER 37 C.F.R. §1.47(a)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §1.47(a), this Renewed Petition is filed to request examination of the above-identified patent application. Applicants previously filed a petition under 37 CFR §1.47(a) on February 27, 2007. The Decision on Petition Under 37 CFR §1.47(a), mailed June 8, 2007 (copy attached), indicates that the petition was dismissed because the evidence submitted to show that Pierre-Francois Serres refused to sign was deemed insufficient. Applicants respectfully request reconsideration of the decision in light of the further evidence submitted herewith.

Attached hereto is a Declaration of Christian Rochet supporting the Petition under 37 CFR §1.47(a), that includes the facts summarized herein below pertinent to a filing under Rule 47(a). The Declaration expressly states that Pierre-Francois Serres was sent "a complete copy of the application papers (specification, claims, and drawings along with Declaration/Power of Attorney and Assignment documents)."

Also attached is a Declaration duly executed by Sylvain FLEURY, Marc GIRARD, Marie-Gaelle ROGER, and Nicolas MOUZ, four of the five co-inventors of the claimed invention. The other co-inventor, Pierre-Francois SERRES, has refused to execute the application. Accordingly, this Declaration has also been signed on behalf of Pierre-Francois SERRES by the remaining four co-inventors in accordance with 37 CFR §1.64.

The last known mailing address of the non-signatory co-inventor is: Pierre-Francois Serres, 9 Allee Euphrosyne, 69230 St Genis Laval, France. A copy of the entire application (specification, claims, drawings, and the declaration) was mailed to Pierre-Francois Serres, at this last known address, 9 Allee Euphrosyne, 69230 St Genis Laval, France.

As set forth in the attached Declaration of Christian Rochet, repeated attempts have been made to have Pierre-Francois Serres cooperate in the preparation and execution of the application.

Thus, a diligent effort has been made to have Pierre-Francois Serres execute the entire application (specification, claims, drawings, and Declaration), but Pierre-Francois Serres has to date refused to do so. It is therefore requested that the attached Declaration be placed in the application and that the application be accepted for examination.

Should Pierre-Francois Serres reconsider his position and either himself or through a representative indicate a willingness to file a Substitute Declaration, such will be prepared and filed promptly upon execution.

Applicants previously paid \$200.00 in payment of the Petition fee under §1.17(g). The Decision indicates that no additional petition fee is required. However, please credit any overpayment or debit any underpayment to Deposit Account No. 15-0461.

If any further information is needed in order to obtain examination of this application pursuant to 37 CFR §1.47(a) and/or 37 CFR §1.63, applicants' undersigned representative invites the Patent Office to telephone at the number listed below.

Respectfully submitted,



William P. Berridge  
Registration No. 30,024

Jeffrey R. Bousquet  
Registration No. 57,777

WPB:JRB

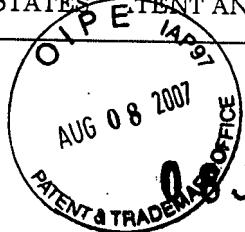
Date: August 8, 2007

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

<b>DEPOSIT ACCOUNT USE AUTHORIZATION</b> Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461
--



## UNITED STATES PATENT AND TRADEMARK OFFICE



122481

JKB  
Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320



In re Application of  
FLEURY, Sylvain et al.  
Application No.: 10/573,704  
PCT No.: PCT/IB04/02433  
Int. Filing Date: 29 July 2004  
Priority Date: 30 July 2003  
Attorney's Docket No.: 122481  
For: New Soluble And Stabilized Trimeric Form Of GP41 : UNDER 37 CFR 1.47(a)  
Polypeptides

DECISION ON

PETITION

This is in response to the petition under 37 CFR 1.47(a), filed 27 February 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Pierre-Francois Serres. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 29 July 2004, applicants filed international application PCT/IB04/02433, claiming a priority date of 30 July 2003. The thirty-month deadline for paying the basic national fee in the United States expired at midnight on 30 January 2006.

On 27 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee and a petition to revive the instant application under 37 CFR 1.137(b).

On 17 April 2006, the Office mailed the "Decision on Petition For Revival of Abandoned Application Under 37 CFR 1.137(b)," granting applicants' request to revive the instant application.

On 31 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that, an oath or declaration and a surcharge for filing the oath and declaration later than 30 months from the priority date, must be filed. The notification set a two-month time limit in which to respond.

On 27 February 2007 applicant filed the present petition accompanied, *inter alia*, by a petition fee, a four-month extension fee, an oath executed by inventors Sylvain Fleury, Marc Girard, Marie-Gaelle Roger and Nicolas Mouz and, a declaration by Mr. Christian Rochet.

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) a statement of the last known address of the missing inventor, (3) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor, and (4) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

As to items (1) and (2), applicants have submitted the correct fee of \$200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.

With regard to item (4), the evidence submitted to show that inventor Pierre-Francois Serres has refused to sign is insufficient. The declaration of Mr. Christian Rochet does not appear to indicate that non-signing inventor Pierre-Francois Serres has been presented with a copy of the application papers, including the claims. Although the evidence submitted shows that non-signing inventor Pierre-Francois Serres has certain grievances against his former employer (see copy of July 24, 2006 response letter from non-signing inventor Pierre-Francois Serres to Fradin, Tronel, Sassard & Associates), the evidence does not indicate that non-signing inventor Pierre-Francois Serres was presented with a complete copy of the application, including the claims. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, claims, drawings, and oath or declaration) to the non-signing inventor for signature. Copies of documentary evidence such as a certified mail return receipt, cover letter of instructions, telegrams, etc., which support a finding that a complete copy of the application papers had been sent to the applicant should be made a part of the declaration or affidavit.

### CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Pierre-Francois Serres, is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.



Leonard Smith  
PCT Legal Examiner  
Office of PCT Legal Administration  
Telephone: (571) 272-3297  
Facsimile: (571) 273-0459



Stefan Staicovici  
PCT Legal Examiner  
Office of PCT Legal Administration  
Telephone: (571) 272-1208



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Sylvain FLEURY et al.

Application No.: 10/573,704

Filed: March 27, 2006

Docket No.: 122481

For: NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41 POLYPEPTIDES

DECLARATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Christian ROCHE, hereby declare and state:

1. That I am the CEO and President of MYMETICS CORPORATION.
2. That Pierre-Francois SERRES has refused to sign the Declaration required under 37 CFR §1.63 after diligent effort was made to obtain his signature.
3. That the present non-provisional application claims priority to U.S. Provisional Patent Application No. 60/490,946, filed July 30, 2003. Pierre-Francois SERRES was also a named inventor of the U.S. provisional patent application.
4. To the best of my knowledge and understanding, Pierre-Francois SERRES considers himself to be one of the inventors of the subject matter of the present application.

5. That on April 19, 2006, I sent a letter to Pierre-Francois SERRES by registered mail, return receipt requested (copy of the letter attached) at his last known address as follows:

9 ALLEE EUPHROSYNE  
69230 ST GENIS LAVAL, FRANCE

The letter forwarded to Pierre-Francois SERRES a complete copy of the application papers (specification, claims, and drawings along with Declaration/Power of Attorney and Assignment documents). The letter requested that Pierre-Francois SERRES review, execute and return the documents to me immediately.

6. In a telephone conference on or about May 10, 2006 between myself and Pierre-Francois SERRES, Pierre-Francois SERRES orally stated that he refused to sign the documents for the present application until he received several months payment under the non-compete clause and a set number of MYMETICS CORPORATION shares.

7. That on June 12, 2006, I sent a letter to Pierre-Francois SERRES by registered mail, return receipt requested (copy of the letter attached) at his last known address as follows:

9 ALLEE EUPHROSYNE  
69230 ST GENIS LAVAL, FRANCE

The letter memorialized our telephone conference on or about May 10, 2006. The letter requested that Pierre-Francois SERRES formally confirm in writing his conditions for signing the Declaration/Power of Attorney for the present application.

8. That on July 13, 2006, MYMETICS CORPORATION caused to be served on Pierre-Francois SERRES a SIMPLE SUMMONS, which was converted from a SUMMONS FOR INTERROGATION, which was unsuccessfully served after attempts on June 16, 2006 at 7:00 pm, June 20, 2006 at 7:45 pm, June 21, 2006 at 7:25 am, June 23, 2006 at 8:45 pm, June 27, 2006 at 7:00 am, and leaving a letter requesting a phone call from Pierre-Francois SERRES on



June 23, 2006. The SIMPLE SUMMONS was served by the company FRADIN TRONEL SASSARD & ASSOCIATES, Bailiffs. The SIMPLE SUMMONS requested that Pierre-Francois SERRES state his conditions for signing the Declaration/Power of Attorney and any other future document for the present application. Attached is a copy of the SIMPLE SUMMONS and the SERVICE REPORT of the Bailiff who attempted to personally serve Pierre-Francois SERRES with the SUMMONS.

9. That on July 26, 2006, FRADIN TRONEL SASSARD & ASSOCIATES, Bailiffs, received a letter (attached) from Pierre-Francois SERRES indicating his refusal to sign the Declaration/Power of Attorney for the present application.

7. That to date, Pierre-Francois SERRES has not returned any of the documents. As such, Pierre-Francois SERRES's actions must be taken as a refusal to execute the application.

8. That diligent efforts have been made to have Pierre-Francois SERRES voluntarily execute the required Declaration under 37 CFR §1.63.

July 26, 2006

Date

Modut

Christian ROCHET, President & CEO  
MYMETICS CORPORATION

Attachments:

Copy of April 19, 2006 Letter to Pierre-Francois SERRES, with English-language translation

Copy of June 12, 2006 Letter to Pierre-Francois SERRES, with English-language translation

Copy of July 13, 2006 Cover Letter, SIMPLE SUMMONS, and SERVICE REPORT, with English-language translation

Copy of July 24, 2006 Response Letter from Pierre-Francois SERRES to FRADIN TRONEL SASSARD & ASSOCIATES, Bailiffs



1

# NOTE DE DÉPLACEMENT ("P") MYMETICS

Mymetics Corporation  
European Executive Office  
14 rue de la Colombe  
CH- 1260 NYON  
Switzerland

Christophe JF Rochat  
President and CEO

Phone : + 41 22 363 13 10  
Fax : + 41 22 363 13 11  
Mobile : + 41 79 518 56 75

## REGISTERED MAIL RETURN RECEIPT REQUESTED

Nyon, April 19, 2006

Monsieur Marc Girard  
39, rue Saigne Martin  
69003 Lyon

Protein' Expert  
Monsieur Nicolas Mouz  
Madame Marie Gaëlia Roger  
15 rue des Martyrs  
38027 Grenoble

Monsieur PF Serres  
9 allée Euphrasine  
69230 Saint Genis Laval

Copie : Ernest Lübke, Nony & Associés

Dear all:

I would appreciate your completing the national extension document for the Mymetics Corporation patent.

Please send this document, registered:

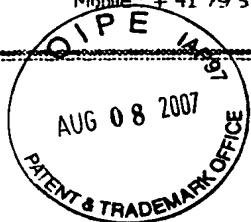
- From Marc Girard to Protein'eXpert
- Then Pierre François Serres

Pierre-François:

*I would like to remind you that, in regard to your position as an ex-employee of Mymetics Corporation, and administrator of this same company, and in regard to United States and French laws on patent and invention ownership, you cannot under any circumstances oppose signing these documents concerning the United States and Russia, as well as other documents of the same type in the future.*

Thanking you all in advance for your speed in this matter, I am,

With best regards,



**LETTRE RECOMMANDÉE AVEC ACCUSE DE RECEPTION**

Nyon, le 19 avril 2006

Monsieur Marc Girard  
39, rue Saigne Martin  
69003 Lyon

Protein' Expert  
Monsieur Nicolas Mouz  
Madame Marie Gaëlle Roger  
15 rue des Martyrs  
38027 Grenoble

Monsieur PF Serres  
9 allée Euphrozine  
69230 Saint Genis Laval

Copie : Ernest Lübke, Nony & Associés

Cher Tous,

Merci de compléter le document d'extension nationale du brevet de Mymetics Corporation.

Merci de faire suivre ce document en recommandé :

- ❖ De Marc Girard à Protein'eXpert
- ❖ Puis Pierre François Serres

Pierre-François,

*Je vous rappelle qu'au regard de votre position d'ex-salarié de Mymetics Corporation, et d'administrateur de cette même société, ainsi qu'au regard des lois américaines et française sur la propriété des brevets et inventions, vous ne pouvez en aucun cas vous opposez à signer ces documents concernant les Etats-Unis et la Russie, de même que d'autres documents du même type à venir.*

En vous remerciant tous par avance de votre célérité en la matière,

Avec mes sentiments les meilleurs,

Pj. 2



1

**ATTN Mme BRUNATTA (2P)**

Mymetics Corporation  
European Executive Office  
14 rue de la Colombe  
CH- 1260 Nyon  
Switzerland

Christine JP Vuillet  
President and CEO

Phone : + 41 22 363 13 10  
Fax : + 41 22 363 13 11  
Mobile : + 41 79 518 56 35

**REGISTERED MAIL RETURN RECEIPT REQUESTED**

**Monsieur Pierre-François SERRES**  
**9, allée Euphrosyne**  
**F. 69230 Saint Genis Laval**

Dear Mr. Serres:

You received by registered mail a set of documents to be signed for the international extension of Mymetics Corporation documents on April 29 last.

The receipt, returned to the sender (ProteineXpert S.A.) is proof of this.

Since I received nothing from you by May 10, I called you, and you confirmed that you did not wish to sign these documents until you receive several months payment under the non-compete clause and a set number of Mymetics shares, 6 million.

I would appreciate your formally confirming in writing your conditions for signing the documents in your possession as well as any other future patent-related document in which you are designated either as sole inventor or as co-inventor.

I am sure that you are aware that your refusal to sign such documents blocks the development of the company, the search for financing and a possible agreement with an industrial partner, and finally jeopardizes its survival.

With thanks in advance for your speed in this matter, I am,

Sincerely yours.

PS: please send me your e-mail address to speed up our communications.

Copy:

**E. Lübeck, S. Fleury, M. Girard (Mymetics Corporation)**  
**Jacques-François Martin (Parteurop)**  
**Maître Pierre-Yves Cerrato (Brumm & Associés)**

**ATTN M<sup>e</sup> BRIATTA (2P)**

**: MYMETICS**

Mymetics Corporation  
European Executive Office  
14 rue de la Colombière  
CH- 1260 NYON  
Switzerland

Christian JF Rochet  
President and CEO

Phone : + 41 22 363 13 10  
Fax : + 41 22 363 13 11  
Mobile : + 41 79 518 56 35

**LETTER RECOMMANDÉE AVEC A.R.**

Monsieur Pierre-François SERRES  
9, allée Euphrosyne  
F. 69230 Saint Genis Laval

Monsieur,

Vous avez reçu par courrier recommandé un ensemble de documents à signer pour l'extension internationale des brevets de la société Mymetics Corporation, et ce, le 29 avril dernier.

L'accusé de réception, retourné à l'expéditeur (ProteinExpert S.A.), en fait foi.

N'ayant rien reçu de vous à la date du 10 mai, je vous ai appelé, et vous m'avez confirmé ne pas vouloir signer ces documents, avant d'avoir reçu le paiement de plusieurs mois de la clause de non-concurrence ainsi qu'un nombre forfaitaire d'actions Mymetics de 6 millions.

Je vous remercie par avance de me confirmer formellement par écrit vos conditions pour signer les documents en votre possession ainsi que tout autre document à venir relatif aux brevets dans lesquels vous êtes désigné soit comme inventeur unique soit comme co-inventeur.

Je suis certain que vous êtes conscient du fait que votre refus de signer de tels documents bloque le développement de la société, la recherche de financement et l'éventuel accord avec un partenaire industriel, et finalement met en danger la survie de celle-ci.

En vous remerciant par avance d'agir avec célérité en la matière, je vous prie d'agrérer,  
Monsieur, mes salutations distinguées.

PS : merci de me communiquer votre adresse email de façon à accélérer nos communications

Copie : E. Lübecke, S. Fleury, M. Girard (Mymetics Corporation)  
Jacques-François Martin (Parteurop)  
Maître Pierre-Yves Cerrato (Brumm & Associés)

# FRADIN TRONEL SASSARD & ASSOCIES

## Bailiffs

Pierre A. FRADIN  
Avocat/Président de  
la Chambre Régionale de Lyon

Catherine  
GASNIER-FRADIN

Damien TRONEL

Oliver SASSARD  
Conseil de spécialisation  
en procédures judiciaires

Oliver PRADIN  
DEA Directeur  
Chambre d'arrondissement  
de Lyon et Villeurbanne

Mathilde FRADIN  
avocat/coordinateur  
dossiers  
Conseil de spécialisation  
en procédures judiciaires

Agnès FRADIN-TETE  
Maîtresse de Justice  
Avocate

Société Civile  
Professionnelle  
cabinet d'un Office  
d'Avocats de Justice

33, rue de la  
République  
Allée 5 - 4<sup>e</sup> étage  
B.P. 2039  
69226 LYON Cedex 02

Tél : 04 72 42 66 83  
Fax : 04 72 42 87 45  
[lyon@fradin-tronel.com](mailto:lyon@fradin-tronel.com)

Horaires d'ouverture:  
de 09h00 à 12h45 et  
de 13h45 à 17h00

Paiement à distance par  
Carte Bleue

[www.fradin-tronel.com](http://www.fradin-tronel.com)  
ou par téléphone  
ou par virement sur  
Banque Postale Lyon 2626-607

Membre d'une association régionale.  
Le règlement pour déposer une demande  
EST 013 320 555 LYON  
N° de TVA Intracommunautaire:  
FR 22 300 000 992

Monsieur SERRES Pierre-François

8 allée Euphrasie

69230 ST GENIS LAVAL

Lyon, July 13, 2006

**My references: 16 649 / 00 / OF**

**Re: MYMETICS CORPORATION / Pierre-François Serres  
NOTICE OF SERVICE**

Dear Mr. Serres:

I wish to advise you that, in accordance with legal provisions, I have served on you the following document:

### SUMMONS FOR INTERROGATION

At the request of:

Myometics Corporation, European Executive Office  
1260 Nyon, Switzerland

A copy of this Notice is attached to this letter.

A copy of this proceeding will be filed in this office for three months (ref. R1885).

It is your responsibility to pick up this document from my office or have it picked up by any specifically empowered individual.

"The Bailiff may, at the request of the party served, forward the copy of the document to another office where it can be picked up under the same conditions (last paragraph, article 656, NCPC)".

Yours very truly,

Enc.: copy of document served [signature]



	<p style="text-align: center;"><b>SECOND ORIGINAL ()</b></p> <p style="text-align: center;"><b>SUMMONS FOR INTERROGATION</b> <b>Converted into a SIMPLE SUMMONS</b></p> <p style="text-align: center;">after attempts on 6/19 at 7:00 pm, 6/20 at 7:45 pm, 6/21 at 7:25 am, 6/23 at 8:45 pm, 6/27 at 7:00 am, and leaving a letter requesting that I be called, on 6/23</p>
Ref. (please quote): 16 649 / OF / I Document 06.12543 (SF1)	THURSDAY JULY THIRTEEN, TWO THOUSAND SIX

I, the Professional Civil Company Pierre A. Fradin, Catherine Fradin, Damien Tronel, Oliver Sassard, Olivier Fradin, Mathieu Fradin, Agnès Tete, owner of a Bailiff's Office headquartered at 33B rue de la République, Lyon 69002, one of the above undersigned, having signed one of the notice of service pages,

To:

Mr. Pierre-François Serres

9 allé Euphrosyne

69230 St. Genis Laval

at said domicile, to which I proceeded and where I spoke as stated in the SERVICE REPORT appended hereto

AT THE REQUEST OF:

The Mymetics Corporation, European Executive Office, headquartered at 14 rue de la Colombière, 1260 Nyon, Switzerland acting through its legal representative domiciled for this purpose at said corporate headquarters electing domicile in my office

I HEREBY NOTIFY YOU AND DECLARE THAT:

YOU MAY NOT DENY OR DISAGREE THAT:

By registered mail return receipt requested of April 19, 2006, my principal requested that you complete a national extension document on the Patent of my principal.

You have not responded, advised, or returned this document.

My principal is entitled to know the conditions you intend to set for signature of this document in your possession or any other future document relating to the patent in which you are designated either as sole inventor or as co-inventor.

Now therefore,

**I SUMMON you to:**

inform me of the conditions you intend to set for signature of this document in your possession or any other future document relating to the patent in which you are designated either as  
[end of page 1 of French document]

**SECOND ORIGINAL (3216)**

Office references: 16 649 / 00 OF – ACTE No. 06.12543 (SF1)

**SERVICE REPORT**

The undersigned Bailiff certifies that:

On THURSDAY JULY THIRTEEN, TWO THOUSAND SIX

when delivering the copy of the present document to:

Mr. Pierre-François Serres  
9 allé Euphrosyne 69230 St. Genis Laval

and having proceeded to this address, I found the doors closed and no-one responded to my calls. Since it was impossible to serve the party personally and since, at the time of my visit, I found no information as to the whereabouts of said party, it was impossible to deliver personally or to a person present who agreed to receive the copy of the document, and having verified that the party to be served was domiciled at the address listed above according to the following data:

*pursuant to Article 656 of the New Code of Civil Procedure, the copy of the present document is on file in my Office in a sealed envelope bearing only the names and address of the party to be served and the seal of my Office covering the envelope seal.*

*A document with this day's date, stating that the copy was remitted, the nature of the proceeding, and the name of the serving party was left at the site.*

*The summons pursuant to Article 658 of the New Code of Civil Procedure, containing a copy of the document service, with the same listings as the remittance note and citing the provisions of the last paragraph in Article 656 of the New Code of Civil Procedure was sent on 7/13/2006.*

---

This report was remitted by the Bailiff according to the declarations made thereto. Final COST breakdown of the procedure subject to lump-sum fee:

**COST DETAILS**

Art. 6: Fixed charges	400.00
Art. 18: Travel costs	6.10
Total net of tax	406.10
VAT, rate 19.60%	79.60
Art. 20: Lump-sum fee	9.15
Art. 20: Franking	1.22

# FRADIN TRONEL SASSARD & ASSOCIES

## Huissiers de Justice

Pierre A. FRADIN  
Ancien Président de  
la Chambre Régionale de Lyon

Catherine  
GASNIER - FRADIN

Damien TRONEL

Olivier SASSARD  
Certificat de spécialisation  
en procédures judiciaires

Olivier FRADIN  
DEA Droit Privé  
Charge d'enseignement  
à la Faculté de LYON III

Mathieu FRADIN  
DESS Contentieux et procédures  
d'exécution  
Certificat de spécialisation  
en procédures judiciaires

Agnès FRADIN - TETE

Huissiers de Justice  
Associés

Société Civile  
Professionnelle  
titulaire d'un Office  
d'Huissier de Justice

33, rue de la  
République  
Allée B - 4<sup>ème</sup> étage  
B.P. 2039  
69226 LYON Cedex 02

Tél : 04 78 42 66 33  
Fax : 04 78 92 97 45  
lyon@fradin-huissier.com

Etude ouverte  
de 9h00 à 12h30 et  
de 13h30 à 17h00

Paiement à distance par  
Carte Bleue

www.fradin-huissier.com  
ou par téléphone  
ou par virement sur  
Banque Postale Lyon 2686-60V

Membre d'une association agréée  
Le règlement par chèque est accepté  
378 023 220 RCS LYON  
N° de TVA Intracommunautaire :  
FR 8937.B023220



Monsieur SERRES Pierre-François

9 allée Euphrosyne

69230 ST GENIS LAVAL

avis 658 - 16 649 / 00 / OF

LYON, le 19 Juillet 2006

Mes références : 16 649 / 00 / OF  
Affaire : MYMETICS CORPORATION /SERRES Pierre-François

### AVIS DE SIGNIFICATION

Monsieur,

Je vous avise, conformément aux dispositions légales, vous avoir signifié l'acte suivant :  
**SOMMATION INTERPELLATIVE**

à la demande de :  
Société MYMETICS CORPORATION European Executive Office

1260 NYON - SUISSE

et dont je vous adresse copie, en annexe du présent avis de signification.

La copie de cet acte est conservée à l'étude pendant trois mois (réf. R1885).

Il vous appartient, dans les plus brefs délais, de la retirer en mon étude ou la faire retirer par toute personne spécialement mandatée.

"L'Huissier de Justice peut, à la demande du destinataire, transmettre la copie de l'acte à une autre étude où celui-ci pourra la retirer dans les mêmes conditions (dernier alinéa de l'article 656 du N.C.P.C.)"

Je vous prie d'agréer, Monsieur, l'expression de mes sentiments distingués.

P.J. :  
copie de l'acte signifié

Pierre A. FRADIN  
Catherine FRADIN  
Damien TRONEL  
Olivier SASSARD  
Olivier FRADIN  
Mathieu FRADIN  
Agnès TETE



SECOND ORIGINAL ()

## SOMMATION INTERPELLATIVE transformée en SOMMATION SIMPLE

Huissiers de Justice Associés  
33B, rue de la République  
BP 2039 - 69226 LYON Cedex 2  
Tél. 04 78 42 66 33  
Fax. 04 78 92 97 45  
lyon@fradin-huissier.com  
CCP LYON 2686-60V

après tentative des 19/06 à 19h00, 20/06 à 19h45, 21/06 à 7h25, 23/06 à 20h45,  
27/06 à 7h00 et dépôt d'une carte demandant de me rappeler le 23/06

Réf. à rappeler : 16 649 / OF / I  
Acte 06.12543 ( SF1 )

Le JEUDI TREIZE JUILLET DEUX MILLE SIX

Je, Société Civile Professionnelle Pierre A. FRADIN, Catherine FRADIN, Damien TRONEL, Olivier SASSARD, Olivier FRADIN, Mathieu FRADIN, Agnès TETE, titulaire d'un Office d'Huissier de Justice dont le siège social est à LYON 69002, 33B, rue de la République, l'un d'eux soussigné, ayant signé un des feuillets de signification,

A :

Monsieur SERRES Pierre-François  
9 allée Euphrosyne  
69230 ST GENIS LAVAL  
au dit domicile où étant et parlant comme il est dit au Procès-Verbal de Signification figurant en fin du présent acte

A LA DEMANDE DE :

Société MYMETICS CORPORATION European Executive Office ayant son siège  
14 rue de la Colombe - 1260 NYON - SUISSE  
agissant poursuites et diligences de son représentant légal domicilié à cet effet au dit siège social

Elisant domicile en mon étude

JE VOUS SIGNIFIE DIS ET DECLARE QUE :

VOUS NE POUVEZ NI NIER NI DISCONVENIR QUE :

Par courriers recommandés avec demande d'avis de réception en date du 19 avril 2006, ma requérante vous a demandé de compléter un document d'extension nationale du Brevet de ma requérante.

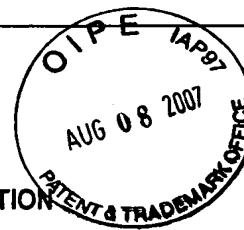
Vous n'y avez pas répondu ni même renseigné et retourné ce document.

Ma requérante est en droit de connaître les conditions que vous entendez fixer pour la signature de ce document qui est en votre possession ou tout autre document à venir relatif au brevet dans lequel vous êtes désigné soit comme inventeur unique soit comme co-inventeur.

En conséquence,

Je vous fais SOMMATION DE :

m'indiquer les conditions que vous entendez fixer pour la signature dudit document qui est en votre possession ou tout autre document à venir relatif au brevet dans lequel vous êtes désigné soit comme



## PROCES-VERBAL de SIGNIFICATION

L'Huissier de Justice soussigné(e), certifie que :

Le JEUDI TREIZE JUILLET DEUX MILLE SIX

lors de la signification de la copie du présent acte à :

**Monsieur SERRES Pierre-François  
9 allée Euphrosyne 69230 ST GENIS LAVAL**

Sur place, j'ai trouvé portes closes et personne n'a répondu à mes appels.

La signification à la personne même du destinataire de l'acte s'avérant de ce fait impossible, et n'ayant pu, lors de mon passage, avoir aucune indication sur le lieu où rencontrer le destinataire de l'acte, ces circonstances rendant impossible la remise à personne ou à une personne présente acceptant de recevoir la copie de l'acte, et vérifications faites que le destinataire est domicilié à l'adresse indiquée suivant les éléments ci-après :

*Conformément à l'article 656 du Nouveau Code de procédure civile, la copie du présent acte est conservée en mon Etude sous enveloppe fermée, ne portant que l'indication des noms et adresse du destinataire de l'acte, et le cachet de mon Etude apposé sur la fermeture du pli.*

*Un avis de passage daté de ce jour, mentionnant la remise de la copie, la nature de l'acte et le nom de la partie requérante, a été laissé sur place.*

*L'avis de signification prévu par l'article 658 du Nouveau Code de procédure civile, contenant copie de l'acte signifié, comportant les mêmes mentions que l'avis de passage et rappelant les dispositions du dernier alinéa de l'article 656 du Nouveau Code de procédure civile, est adressé le 13/07/2006.*

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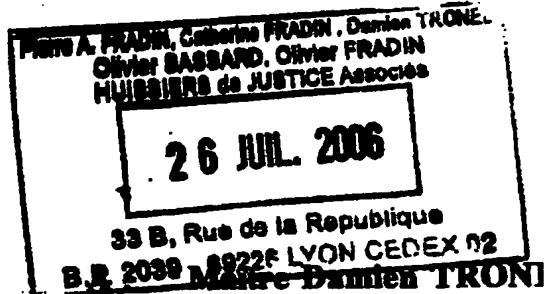
Cet acte a été remis par l'Huissier de Justice, suivant les déclarations, qui lui ont été faites. COUT définitif détaillé de l'ACTE Acte soumis à la Taxe Forfaitaire

**DETAIL DU COUT DE L'ACTE**

Art. 6 : Droits fixes	400.00
Art. 18 : Frais de déplacement	6.10
Total Hors-Taxes	406.10
TVA au taux de 19.60 %	79.60
Art. 20 : Taxe forfaitaire	9.15
Art. 20 : Affranchissement	1.22



**P.-F. SERRES**  
9, allée Euphrosyne  
69230 Saint-Genis-Laval  
T : 04 78 56 65 02  
F : 06 13 93 30 17  
Fax : 04 72 39 53 00



Maître Damien Tronel, Bailiff  
33B, rue de la République  
BP 2039, 60226 Lyon Cedex 2  
Saint-Genis-Laval, July 24, 2006

**Re: 16 649/OF /I-RAR**

Dear Maître Tronel:

Further to my telephone conversation of today's date with your Office, I am sending you the letter discussed.

I did receive, by mail, your "summons for interrogation converted into a simple summons" dated July 13, 2006, of which I acknowledge receipt.

On July 20, 2006 I forwarded this document to Maître F. Carron, Attorney, member of the Lyon Bar, who is defending my interests.

Independently of the analysis of the document that Maître F. Carron will make, I would like, as a preliminary, to convey to you my astonishment at being asked by Mymetics to provide signatures that may be useful in a context of clearly dishonest actions conducted repeatedly against me by this Company.

For your information, and so that you can pay attention to the legitimacy of my examination position, here is an account of certain dishonest and questionable actions taken against me by Mymetics Corporation (US holding company) and Mymetics SA (French subsidiary).

I. In May, 2003, when I was employed as Scientific Director and Research Director of Mymetics SA, with employee seniority of 13 years, I together with all the employees of Mymetics SA was dismissed without respect for legal dismissal procedures and without payment of legal sums required for dismissals. All the employees dismissed were compelled to seek *Prud'hommes* [= labor conciliation board] jurisdiction and in each case Mymetics was ordered to pay due and unpaid salary arrears plus damages.

Armed with a judgment with provisional execution and despite a manifestly dilatory appeal by Mymetics SA, not having obtained even partial payment of the sums due and given the deficiency observed, Maître F. Carron had no choice but to sue Mymetics SA for relief. The suit for relief from Mymetics SA was opened on 2/7/2006 by the Lyon Commercial Court.

II. The current managers of the company who instructed you took back control of Mymetics (Corp and SA) in July 2003 thanks to 6 million shares in Mymetics Corp that they requested from me to allow the operation. Acceding to their request, I handed over 6 million shares for one symbolic Euro (value at the time of the transaction: US\$ 600,000). I never received the consideration for this share transfer (restoration of wrongful dismissal, reemployment, employee agreement, and salary). The transaction and its consideration, clearly defined, were the subject of a shareholder agreement signed by 55% of the Mymetics Corp shareholders. This shareholder agreement was not respected by Mymetics and the only salaries paid since 2003 were to the current managers and their collaborators which, moreover, were from funds largely tapped from my prior scientific work that had led to exploitable patents. As the donor of 6 million shares enabling resumption of control of the company I received only, in return for my free-of-charge transfer of shares, a free listing for a few months on the company's website (!). After specialized consultations, the behavior of the current managers of Mymetics in the matter is purely and simply a scam. A return receipt requested letter sent to the Company having remained without effect, I will have to sue the managers of Mymetics Corp in the appropriate courts to obtain restitution of the 6 million shares transferred without receipt of the consideration referred to in a shareholders agreement.

III. After my dismissal from Mymetics SA in May 2003 I respected the contractually defined non-compete period in the applicable Collective Agreements referred to, for a period of 24 months, on my last pay slip delivered by Mymetics SA on May 12, 2006. According to my accounting records, only the first month of compensation for non-competition was paid by Mymetics SA and 23 months remain due and have still not been paid despite a return receipt requested letter to the Company, which was not answered.

IV. As a minority owner of Mymetics SA I have at this time a charge account credit because, at the time, I paid some expenses and invoices on behalf of the Company. My repeated requests for reimbursement (including a return receipt requested letter) were not answered.

To this personal context I must add numerous creditors who, unpaid as I was unpaid, call me and tell me their services or invoices have not been paid.

You will understand that in this disastrous climate, being a victim of repeated severe dishonesty by Mymetics, and owed large sums, including those ordered by the court, I am having Maître F. Carron look carefully at the request by Mymetics, the subject of the summons you sent me.

In conclusion, I invite you to ask the Mymetics Board that instructed you to contact Maître F. Carron, my attorney, to decide on this summons for interrogation and what is to be done about it.

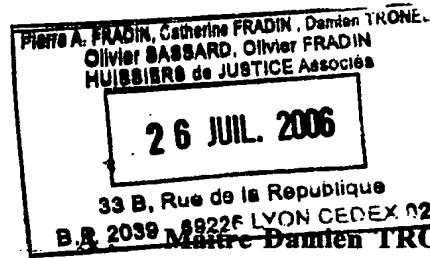
Hoping that you received this information in good order I am,

Yours very truly,

P. F. Serres [*initialled*]

Copy: Maître F. Carron, attorney

**P.-F. SERRES**  
9, allée Euphrosyne  
69230 Saint-Genis-Laval  
**T : 04 78 56 65 02**  
**F : 06 13 93 30 17**  
Fax : 04 72 39 53 00



**Maître Damien TRONEL - Huissier de Justice**  
33B, rue de la République  
BP 2039 69226 LYON Cedex 2  
Saint - Genis - Laval, le 24 juillet 2006

**Objet : 16 649/0F /I- RAR**

Cher Maître,

Je fais suite à ma conversation téléphonique de ce jour avec votre Etude et vous adresse le courrier annoncé téléphoniquement .

J'ai bien reçu , par voie postale , votre « sommation interpellative transformée en sommation simple » datée du 13 juillet 2006 dont j'accuse réception.

J'ai transmis ce document , en date du 20 juillet 2006, à Maître F.CARRON , Avocat au Barreau de LYON , qui assure la défense de mes intérêts .

Indépendamment de l'analyse du document qui va être effectuée par Maître F. CARRON, je tiens , de façon préliminaire, à vous faire part de mon étonnement d'être sollicité par MYMETICS pour donner des signatures qui peuvent rendre service dans un contexte d'actions clairement malhonnêtes et menées de façon répétitive à mon encontre par cette Société.

Voici , pour votre information et afin que vous puissiez porter attention à la légitimité de ma position d'examen , un exposé de certaines actions malhonnêtes et contestables menées à mon encontre par MYMETICS Corporation ( Holding US) et MYMETICS SA ( filiale française).

**I-**En mai 2003, salarié Directeur Scientifique et Directeur de Recherche de MYMETICS SA , ayant une ancienneté salariée de 13 années, j'ai été , ainsi que l'ensemble des salariés de MYMETICS SA , licencié sans aucun respect des procédures légales de licenciement et sans paiement de sommes légales inhérentes au licenciement- Tous les salariés licenciés ont été contraints de saisir la juridiction Prud'homale et MYMETICS SA a été systématiquement condamnée à payer les préjudices et les arriérés de salaire dûs et non payés.

Muni d'un jugement avec exécution provisoire et malgré un appel manifestement dilatoire de MYMETICS S.A , n 'ayant pas obtenu paiement ,même partiel des sommes dues et devant la carence constatée , Maître F.CARRON n'a eu d'autres ressources que d'assigner MYMETICS SA en Redressement Judiciaire- La procédure d'ouverture du Redressement Judiciaire de MYMETICS SA a été ouverte , en date du 7/02/2006 par Jugement du Tribunal de Commerce de LYON .

**II-**Les dirigeants actuels de la société qui vous on mandaté ont , en juillet 2003, repris le contrôle de MYMETICS ( Corp et SA) grâce à 6 million d'actions de MYMETICS Corp qu'ils m'ont demandé pour permettre l'opération.J'ai , accédant à leur demande,donné 6 millions d'actions à l'euro symbolique ( valeur au moment de la transaction : 600 000 US dollars) - Je n'ai jamais reçu la contrepartie convenue de cette cession gratuite ( réparation du licenciement abusif, réintégration, contrat de travail et salaire)- La transaction et sa contrepartie clairement définies avaient fait l'objet d'un pacte d'actionnaires signée par 55 pour cent de actionnaires de MYMETICS Corp - Ce pacte d'actionnaires n'a pas été respecté par MYMETICS et les seuls salaires versés depuis 2003 l'ont été aux dirigeants actuels et leur collaborateurs et de surcroit grâce à des fond drainés pour grande part sur mes travaux scientifiques antérieurs ayant fait l'objet de brevets d'invention valorisables -En tant que donateur des 6 millions d'actions ayant permis la reprise du contrôle de la société je n' ai reçu, en retour de ma cession d'actions gratuite qu'un titre honorifique quelques mois sur le site internet de la société ( ! ) - Après consultations spécialisées , le comportement des dirigeants actuels de MYMETICS en la matière relève purement et simplement de l'escroquerie- Un courrier RAR adressé à la Société

étant resté sans effet, je vais devoir assigner les dirigeants de MYMETICS Corp. devant les juridictions compétentes pour obtenir restitution des 6 millions d'actions cédées sans réception de la contrepartie mentionnée dans un pacte d'actionnaires .

**III- J'ai ,à la suite de mon licenciement de MYMETICS SA en mai 2003 respecté la période de non concurrence contractuellement définie ,relevant des Conventions Collectives applicables et mentionnée, pour une période de 24 mois dûs, sur sur mon dernier bulletin des salaire du 12 mai 2006 délivré par MYMETICS SA - Selon l'examen de mes comptes , seul le premier mois d'indemnité de non concurrence m'a été versé par MYMETICS SA et 23 mois restent dûs et ne sont toujours pas payés malgré une demande RAR effectuée auprès de la Société restée sans effet.**

**IV- Actionnaire minoritaire de MYMETICS SA , j'ai à ce jour un compte courant créiteur ayant , en son temps ,engagé des frais et payé des factures pour le compte de la Société- Mes demandes répétées de remboursement ( incluant une demande RAR ) des frais engagés sont restées sans effet..**

Il convient de rajouter à ce contexte personnel de nombreux créanciers qui , comme moi impayés m'appellent et me font savoir que leurs prestations ou leurs factures demeurent impayées .

Vous comprendrez que dans un tel climat désastreux ,étant victime de la part de MYMETICS de malhonnêtetés lourdes et répétées ,demeurant non payé de sommes importantes, incluant celles qui sont dues par décision de justice , je fasse examiner attentivement par Maître F.CARRON. une demande qui m'est formulée par MYMETICS et objet de la sommation que vous m'avez adressée.

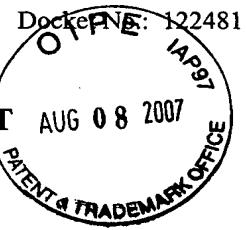
En conclusion , je vous invite à demander au Conseil de MYMETICS qui vous a mandaté de prendre contact avec Maître F. CARRON , mon Avocat , afin de statuer sur cette sommation interpellative et la suite à lui donner .

Vous souhaitant bonne réception de ces informations , je vous prie de croire , Cher Maître, à l'expression de ma meilleure considération.

P.F.SERRES



Copie : Maître F. CARRON – Avocat.



## DECLARATION UNDER 35 USC §371(c)(4) FOR PCT APPLICATION FOR UNITED STATES PATENT

As a below named inventor, I hereby declare that:  
my residence, post office address and citizenship are as stated below under my name;

I verily believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought, namely the invention entitled: NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41 POLYPEPTIDES

described and claimed in international application number PCT/IB2004/002433 filed July 29, 2004.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations §1.56.

Under Title 35, U.S. Code §119, the priority benefits of the following foreign application(s) filed by me or my legal representatives or assigns within one year prior to my international application are hereby claimed:

US Provisional Application N° 60/490,946 filed July 30, 2003

The following application(s) for patent or inventor's certificate on this invention were filed in countries foreign to the United States of America either (a) more than one year prior to my international application, or (b) before the filing date of the above-named foreign priority application(s):

ALL CORRESPONDENCE IN CONNECTION WITH THIS APPLICATION SHOULD BE SENT TO OLIFF & BERRIDGE, PLC, CUSTOMER NUMBER 25944, TELEPHONE (703) 836-6400.

I hereby declare that I have reviewed and understand the contents of this Declaration, and that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1	<b>Typewritten Full Name of Sole or First Inventor</b>	Sylvain	Middle Initial	FLEURY
2	<b>Inventor's Signature:</b>	<u>Sylvain</u>		<u>Fleury</u>
3	<b>Date of Signature:</b>	<u>06</u>	<u>08</u>	<u>2006</u>
	Residence:	Lausanne	Month	Year
			Day	Switzerland
	Citizenship:	Canada	State or Province	Country
	Post Office Address: (Insert complete mailing address, including country)	Chemin de Verdonnet 9 CH-1010 Lausanne, Switzerland		

Note to Inventor: Please sign name on line 2 exactly as it appears in line 1 and insert the actual date of signing on line 3.

**IF THERE IS MORE THAN ONE INVENTOR USE PAGE 2 AND PLACE AN "X" HERE**   
**(Discard this page in a sole inventor application)**

1	<b>Typewritten Full Name of Joint Inventor</b>	Marc	P	GIRARD
2	<b>Inventor's Signature:</b>	<u>Marc</u>	Middle Initial	Family Name
3	<b>Date of Signature:</b>	<u>06</u>	<u>08</u>	<u>2006</u>
	Residence:	Lyon	Month	Year
			Day	France
	Citizenship:	France	State or Province	Country



Post Office Address:  
(Insert complete mailing  
address, including country)

39, rue Saignemartin

F-69008 Lyon, France

**1 Typewritten Full Name  
of Joint Inventor**

Marie-Gaëlle

ROGER

**2 Inventor's Signature:**

*Marie\_Gaëlle*

Middle Initial

Family Name  
*ROGER*

**3 Date of Signature:**

06

08

Year  
*2006*

Month

Day

Year

Residence:

Grenoble

France

City

State or Province

Country

Citizenship:

France

Post Office Address:

5, rue de New York

(Insert complete mailing  
address, including country)

F-38000, Grenoble, France

**1 Typewritten Full Name  
of Joint Inventor**

Nicolas

MOUZ

**2 Inventor's Signature:**

*Nicolas*

Middle Initial

Family Name  
*MOUZ*

**3 Date of Signature:**

06

08

Year  
*2006*

Month

Day

Year

Residence:

Grenoble

France

City

State or Province

Country

Citizenship:

France

Post Office Address:

16, rue Helbronner

(Insert complete mailing  
address, including country)

F-38000, Grenoble France

**1 Typewritten Full Name  
of Joint Inventor**

Pierre-François

SERRES

**2 Inventor's Signature:**

Given Name

Middle Initial

Family Name

**3 Date of Signature:**

Month

Day

Year

Residence:

Saint-Genis Laval

France

City

State or Province

Country

Citizenship:

Post Office Address:

9, allée Euphrosyne

(Insert complete mailing  
address, including country)

F-69230 Saint-Genis Laval, France

**Note to Inventor:** Please sign name on line 2 exactly as it appears in line 1 and insert the actual date of signing on line 3.

This form may be executed only when attached to the first page of the Declaration and Power of Attorney of the application to which it pertains.